

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

*

v.

*

CRIMINAL NO. JKB-21-0458

ELIAS NICK COSTIANES, JR.,

*

Defendants.

*

* * * * *

MEMORANDUM AND ORDER

Petitioner Elias Nick Costianes, Jr. filed a pro se Motion to Vacate, Set Aside or Correct Sentence (the “§ 2255 Motion”). (ECF No. 150, as supplemented by ECF No. 153.) At sentencing, Mr. Costianes was ordered to surrender before 12:00 p.m. on January 15, 2025. (ECF No. 139.) The morning of January 15, Megan Coleman (counsel for Mr. Costianes) filed a Request for Extension of Time to Surrender, seeking to extend his surrender date to March 14, 2025. (ECF No. 155.) The Court granted this motion in part, extending the surrender date to February 12, 2025. (ECF No. 156.) The Court also issued an order setting a briefing schedule in relation to the § 2255 Motion, directing Mr. Costianes’s counsel to supplement the § 2255 Motion by January 22, 2025 and directing the Government to respond by January 31, 2025. (ECF No. 157.)

In the late afternoon of January 22, 2025—the date that counsel’s supplement was due—Ms. Coleman filed a Motion for Appropriate Relief. (ECF No. 158.) In it, she explained that she does not represent Mr. Costianes for purposes of the § 2255 Motion, but rather represents him in his direct appeal only. (*Id.*) She seeks that she be appointed as Mr. Costianes’s counsel in connection with the § 2255 Motion, for additional time to file a supplement to the § 2255 Motion, and for an extension of Mr. Costianes’s surrender date. (*Id.*) The Motion for Appropriate Relief will be granted in part and denied in part as described below.

First, the Court will grant the request for appointment of counsel. The Court has discretion to do so, and 18 U.S.C. § 3006A provides that “[w]henver . . . the court determines that the interests of justice so require, representation may be provided for any financially eligible person who” “is seeking relief under section 2241, 2254, or 2255 of title 28.” The Court concludes that it would be aided in resolving the § 2255 Motion if it appoints counsel to supplement it. Ms. Coleman has already been appointed as CJA counsel in connection with Mr. Costianes’s direct appeal (*see* ECF No. 152), and the Court adopts the Fourth Circuit’s findings as to her appointment.

Second, the Motion for Appropriate Relief seeks an extension to March 24, 2025 to supplement the § 2255 Motion. The Court will grant this request, and will set deadlines for a response in opposition and a reply.

Third, the Court will deny the request for an extension of Mr. Costianes’s surrender date. The Court does not find that an additional extension is warranted. Moreover, Mr. Costianes has cited no authority in support of the argument that his surrender date should be extended due to a pending § 2255 Motion or a pending appeal. Typically, defendants sentenced in this district are incarcerated pending any appeal or collateral challenges to their sentences.

Accordingly, it is ORDERED that:

1. The Motion for Appropriate Relief (ECF No. 158) is GRANTED IN PART AND DENIED IN PART. It is granted insofar as it seeks the appointment of counsel and for an extension of time to supplement the § 2255 Motion. It is denied insofar as it seeks the extension of Mr. Costianes’s surrender date.
2. Megan Coleman is APPOINTED to represent Mr. Costianes in connection with his § 2255 Motion and related matters.

- a. The Clerk SHALL NOTIFY the Criminal Justice Act Coordinating Attorney of the appointment. The Criminal Justice Act Coordinating Attorney IS ADVISED that counsel shall be paid the felony rate for her work on this case.
3. The prior briefing schedule relating to the § 2255 Motion (ECF No. 157) is VACATED. Instead:
 - a. Mr. Costianes, through counsel, SHALL FILE any supplement or amendment to the § 2255 Motion on or before March 24, 2025.
 - b. The Government SHALL FILE any response in opposition on or before April 23, 2025.
 - c. Mr. Costianes SHALL FILE any reply on or before May 23, 2025.
4. All other dates—including Mr. Costianes's February 12, 2025 self-surrender date (ECF No. 156)—REMAIN UNCHANGED.

DATED this 27 day January, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "James K. Bedar", written over a horizontal line.

James K. Bedar
United States District Judge